(32)

17/10/07

HIGH COURT OF CHHATTISGARH AT BILASPUR
DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag. CJ. &
HON'BLE SHRI SATISH K. AGNIHOTRI, J.

Civil Revision No. 157 of 2006

Applicant :
Petitioner : Satyanarayan Agrawal, S/o Late Kashi Ram Agrawal, aged about 52 years, A-3 Class Contractor, R/o – Katka Road, Surajpur, District Sarguja (C.G.).

Versus

Non-Applicants
Respondents

1. State of Chhattisgarh, Through: The Secretary, Water Resources Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.).

2. Superintending Engineer, Water Resources Department, Irrigation Circle, Ambikapur, Distt. Sarguja (C.G.).

3. Executive Engineer, Water Resources Department, Irrigation Division, Surajpur, Distt. Sarguja (C.G.).

Civil Revision U/s 19 of Chhattisgarh Arbitration Act.

Present : Shri V.R. Rao, Senior Advocate with Shri Sanjay Agrawal, counsel for the petitioner.
Shri G.D. Waswani, Government Advocate for the State.

ORAL ORDER

(Passed on 15th October, 2007)

The following oral order of the Court was passed by **Hon'ble Jagdish Bhalla, Ag. C.J.**

This Civil Revision arises out of Arbitration proceedings in Reference Petition No.9/2005 before the Chhattisgarh Madhyastham Adhikaran, Raipur, decided on 18.01.2006 whereby the claim of the revisionist was rejected.

It has been submitted on behalf of the revisionist that fair wages were paid to the workmen by the contractor / revisionist and there was no dispute of fair wages at all. It has been further submitted that the department has failed to provide 3,000 cement bags at the site of execution of the work, however, the department has permitted the contractor / revisionist to procure 3,000 cement bags for the use at site in light of the agreement. The claim of the revisionist before the Arbitration Tribunal is of two fold; firstly, since there was no dispute of wages the reference has been wrongly decided, secondly as far as cement bags are concerned, value of Rs.61/- per bag has been fixed, however, Rs.10/- extra was charged for carting the same from Ambikapur, where the same was purchased, to the site in agreement,. Learned Arbitration Tribunal has taken into consideration the conduct of the revisionist whereby the revisionist / contractor had not completed the work, though the time was essence of the contract and he used delaying tactics. The Tribunal came to the conclusion that although various correspondence has been brought on record, the crucial evidence with regard to actual payment of wages to the workmen/ labourers was not produced. Therefore, the Tribunal had rightly come to the conclusion that the revisionist could have brought the crucial material on record. We also find that had the payment register of the labourers been brought on record; the revisionist could have proved his case. Before this Court in this revision petition no ground has been taken with respect to the amount of cement bags. However, in the facts, it has been referred by the revisionist that he is entitled to extra lead amount of Rs.3,26,594/-. Learned counsel for the revisionist failed to show from the award of the Tribunal that the point i.e Rs.71/- was inclusive of transportation charges, which was argued before us,

was also argued before the Tribunal. No affidavit has been filed on behalf of the revisionist indicating that the point was argued before the Tribunal, but could not be considered by the Tribunal. Since the said point has not been discussed by the Tribunal, the only natural conclusion would be that the same was not argued before the Tribunal. In light of the above, no interference is warranted in this matter. The revision petition is dismissed.

Sd/-
Ag. Chief Justice

Sd/-
Satish K. Agnihotri
Judge

subbu